

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

LUCAS O. KENNEDY,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

CASE NO. C12-5046 BHS

STATEMENT DECLINING
VOLUNTARY RECUSAL

This matter comes before the Court on a pleading filed by Petitioner Lucas O. Kennedy (“Kennedy”) denominated Affidavit of Judicial Bias (Dkt. 40). In addition, Kennedy has filed a Complaint of Judicial Misconduct with the Ninth Circuit. The allegations in Kennedy’s affidavit and complaint are similar.

The Court regards Kennedy’s Affidavit of Judicial Bias as a motion for recusal under Local General Rule 8(c)¹. In considering the motion, the Court is guided by the

¹ Local General Rule 8(c) reads: Whenever a motion to recuse due to alleged bias or prejudice directed at a judge of this court is filed pursuant to 28 U.S.C. § 144, the clerk shall refer it to the chief judge. If the motion is directed at the chief judge, the clerk shall refer it to the next senior active judge. Before a ruling is made on a motion to recuse any judge, the challenged judge will be afforded an opportunity to review the motion papers and decide whether to recuse voluntarily.

standards set out in Canon 3 of the *Code of Conduct for United States Judges*²: “[a] judge shall disqualify himself in a proceeding which a judge’s impartiality might reasonably be questioned.”

After reviewing Kennedy’s affidavit of judicial bias and considering his Complaint of Judicial Misconduct, the Court finds them to be without merit. Additionally, the Court finds that neither the existence of the affidavit and the complaint, nor the allegations contained therein, will impact the Court’s ability to fairly and impartially consider and decide the issues raised in this case.

Accordingly, the Court finds no necessity to voluntarily recuse and hereby refers this matter to Chief Judge Marsha Pechman of the Western District of Washington for review and final determination of Kennedy’s motion (Dkt. 40).

Dated this 15th day of November, 2012.



BENJAMIN H. SETTLE
United States District Judge

² Simply filing a complaint of judicial misconduct cannot be the metric that automatically disqualifies a judge from a case. Otherwise, improper forum shopping would be encouraged.